



NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-114; NRC-2016-0204]

Power Reactors in Extended Shutdowns

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking (PRM), dated September 1, 2016, from David Lochbaum on behalf of the Union of Concerned Scientists and two co-petitioners (the petitioners). The petitioners request that the NRC “promulgate regulations applicable to nuclear power reactors with operating licenses issued by the NRC but in an extended outage.” The PRM was docketed by the NRC on September 14, 2016, and has been assigned Docket No. PRM-50-114. The NRC is examining the issues raised in PRM-50-114 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on the petition.

DATES: Submit comments by February 22, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0204. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Tobin, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-2328, e-mail: Jennifer.Tobin@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0204 when contacting the NRC about the

availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0204.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The petition for rulemaking is available in ADAMS under Accession No. ML16258A486.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2016-0204 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information

before making the comment submissions available to the public or entering the comment into ADAMS.

II. The Petitioners

The petition was filed by David Lochbaum on behalf of the Union of Concerned Scientists and two co-petitioners: Jim Riccio for Greenpeace, and Geoffrey H. Fettus for the Natural Defense Resource Council.

III. The Petition

The petitioners request that the NRC “promulgate regulations applicable to nuclear power reactors with operating licenses issued by the NRC but in an extended outage. The petitioners note that the existing regulations only address operating reactors and those undergoing decommissioning. The petitioners recognize that “[m]any issues being addressed by the NRC’s ongoing decommissioning rulemaking would apply to reactors during extended shutdowns.” However, the petitioners further state that “[t]he reactor in extended shutdown scenario entails issues beyond those being addressed by the NRC’s decommissioning rulemaking.” Specifically, “[t]he petitioners request that the NRC issue a final rule that defines a reactor extended shutdown condition, establishes the requirements applicable during a reactor extended shutdown, and establishes the requirements that must be satisfied for a reactor to restart from an extended shutdown.” In addition, the petitioners request NRC issue a final rule that explicitly states that “a licensee providing the NRC with written certification under 10 CFR [title 10 of the *Code of Federal Regulations*] 50.82(a)(1)(i) of permanent cessation of reactor operations cannot retract that certification and opt to place the reactor into an extended shutdown en route to resumption of reactor operations.”

The petitioners propose two criteria to define when a reactor is placed into an extended shutdown. First, similar to how licensees notify the NRC of their intentions to permanently cease reactor operations under 10 CFR 50.4(b)(8) and 10 CFR 50.82(a)(1)(i), a licensee would “notify the NRC of its intention to put a reactor into an extended shutdown.” Second, a reactor that has been shutdown for 2 years but is not actively pursuing restart under a formal NRC process would fall under the petitioners’ proposed new regulatory requirements for a reactor in extended shutdown.

The petitioners propose the NRC issue a final rule requiring licensees be required to submit a “Reactor Extended Shutdown Activities Report (RESAR)” prior to a reactor entering extended shutdown, similar to the Post-Shutdown Decommissioning Activities Report required by 10 CFR 50.82(a)(4)(i). The petitioners listed seven activities, at a minimum, which should be described in the RESAR. The petitioners note that if the regulations “do[es] not generically address topics like emergency planning exercises, Design Basis Threats and associated physical protection measures, and handling operating experience (i.e., NRC bulletins and generic letters as well as vendor advisories and manual updates), the RESAR should describe how these topics will be handled.”

The petitioners state a new rule should contain requirements for a reactor exiting extended shutdown by either of two pathways: restart of the reactor or enter decommissioning. For reactor restart, the petitioners state that “the final rule must establish how deferred and suspended activities are resumed” and “for each activity deferred, suspended, or reduced during the period of reactor extended shutdown, the final rule and its associated regulatory guidance must clearly establish how these activities are resumed or reinstated.” The petitioners state that the final rule must clearly establish when and to what extent a power ascension startup program is required for reactor re-operation.

The petitioners request the NRC issue a final rule that addresses “whether decommissioning funds may be used for activities during a reactor extended shutdown and, if

so, the criteria and conditions governing use of decommissioning funds.” The petitioners assert that the final rule “must require licensees to submit a preliminary decommissioning cost estimate to the NRC at five-year intervals throughout the period of reactor extended shutdown.”

IV. Request for Comment

The NRC is seeking public comment on the following questions:

1. The petition outlines a scenario where a reactor is in an extended shutdown condition due to economic or other reasons and would at some unspecified later date return to operation. The petition uses the Brown’s Ferry Nuclear Plant as an example, where the Tennessee Valley Authority voluntarily shut down one unit from 1985 to 2007. Are there any facilities or licensees who may be likely to use the petitioners’ extended shutdown scenario in the future? Please provide technical, scientific, or other data or information demonstrating the basis for your position.

2. The petitioners contend that the NRC’s existing regulations were promulgated for operating reactors, and that specific regulations are needed to address non-operating reactors in an “extended shutdown.” Assuming the extended shutdown scenario is credible, in what specific ways are the existing regulations identified in the PRM insufficient to address the scenario described by the petitioners? Please provide technical, scientific, or other data or information demonstrating the basis for your position.

3. Assuming that the existing regulations identified in the PRM are insufficient to address the extended shutdown scenario, what specific changes to those regulations are

needed to facilitate the requested rulemaking? Please provide technical, scientific, or other data or information demonstrating the basis for your position.

4. The petition describes a plant in an “extended shutdown,” and proposes two criteria to enter into this non-operating state (submission of 10 CFR 50.82(a)(1)(i) and 10 CFR 50.4(b)(8) notifications; and a shutdown period of 2 years). Should the term “extended shutdown” be defined in 10 CFR 50.2, “Definitions,” and should the regulations specify the timeframe for this scenario? Please provide technical, scientific, or other data or information demonstrating the basis for your position.

5. Given the NRC's long-standing, well-understood Reactor Oversight Program (ROP), what potential changes would need to be considered to ensure adequate oversight of a reactor during an extended shutdown? Please provide technical, scientific, or other data or information demonstrating the basis for your position.

6. What additional reporting to the NRC should be required for a reactor in an extended shutdown, and with what level of detail and frequency (e.g., the potential changes to the submission of the decommissioning trust fund reports)? Please provide technical, scientific, or other data or information demonstrating the basis for your position.

V. Conclusion

The NRC has determined that the petition generally meets the threshold sufficiency requirements for docketing a PRM under 10 CFR 2.802, “Petition for rulemaking—requirements for filing,” and the PRM has been docketed as PRM-50-114. The NRC will examine the issues raised in PRM-50-114, to determine whether they should be considered in the rulemaking

process. The petitioners have requested a public meeting with the NRC for the purpose of reaching a common understanding of the problems to be resolved by the requested rulemaking. Unlike the public meeting opportunity afforded in the NRC's § 2.206 process mentioned in the PRM, there is no public meeting opportunity required in the petition for rulemaking process (§ 2.802). At this time, the NRC does not intend to hold a public meeting on the PRM.

Dated at Rockville, Maryland, this 5th day of December, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

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